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VIA HAND DELIVERY

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Application of Carolina Water Service, Inc. for adjustment of rates and charges
for the provision of water and sewer service; Docket 2006-92-WS

Dear Mr. Terreni:

The purpose of this letter is to request that the Commission reconsider the action taken at its June 27, 2006 meeting requesting that Carolina Water Service, Inc. ("CWS") provide certain information to the Commission and to clarify the extent of the relief requested in the motion filed by CWS in the above-referenced docket on June 20, 2006. A copy of the Commission's "Request for Information" distributed at the meeting is attached for your reference.

CWS is mindful of the difficult and complex issues which confront the Commission in all ratemaking matters, including water and sewer utility ratemaking proceedings. Necessarily, information submitted and accepted into the record in any water and sewer rate proceeding requires study and analysis by the Commission, which must occur within the statutory time frame provided for under S.C. Code Ann. § 58-5-240 (D) (Supp. 2005). Notwithstanding the complexity of issues and the time constraints imposed by statute, CWS most respectfully disagrees with the Commission's action taken at its meeting on June 27, 2006 for the following reasons.

First, it is CWS's belief that the Commission's "Request for Information" is contrary to Rule 501 of the South Carolina Appellate Court Rules (SCACR), Canon 3, which is binding upon the Commission pursuant to S.C. Code Ann. § 58-3-30 (Supp. 2005). As a quasi-judicial body, the Commission does not participate in rate cases as a party of record. Cf. S.C. Code Ann. 58-5-340 (Amended, 2006). Accordingly, the Commission may not independently investigate

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facts in a case and must consider only the evidence presented. *See* Commentary, Rule 501 SCACR, Canon 3.B.¹

Second, CWS believes that the Request for Information exceeds the Commission's statutory authority. As you are aware, the passage of 2004 Act 175 restructured the Commission. Thus, the inspection, auditing and examination of public utilities is now exclusively a function of the Office of Regulatory Staff ("ORS") under S.C. Code Ann. §58-3-60(D)(Supp. 2005). Similarly, although the Commission is authorized to require periodic reports of jurisdictional utilities under S.C. Code Ann. § 58-3-190 (Supp. 2005), the Request for Information is addressed only to CWS and seeks information specific to a particular ratemaking proceeding that is unrelated to any periodic data. That this authority does not include the submission of interrogatories or questions to jurisdictional utilities in ratemaking proceedings is made clear by the fact that Act 175 removed prior statutory language authorizing the Commission to propound interrogatories or questions. *See* S.C. Code Ann. §58-3-190 (1976).

Third, even assuming that the Request for Information was proper, CWS would note that it does not have in its possession documents which would provide the information described in the request. Because CWS applies its rate revenues to its statewide facilities that are used and useful in providing water and sewer service in some ten (10) different counties and ninety six (96) residential subdivisions, CWS maintains records pertaining to its assets, expenses and revenues on a statewide basis and not on a system or subdivision basis. *See August Kohn and Co., Inc. v. Public Service Commission and Carolina Water Service, Inc.*, 290 S.C. 409, 313 S.E.2d 630 (1984). Nor is CWS aware of any regulation of the Commission which requires that it maintain records in a manner which would require recordation of the information sought.²

With respect to the relief requested in CWS's June 20, 2006 motion, CWS did not, as is suggested by the Commission's directive, request authority to amend its application or its direct pre-filed testimony in this matter. CWS respectfully submits amendment of its direct testimony and application is not necessary given the fact that adjustments for known and measurable events occurring after the test year can be requested in the context of the direct testimony of the Office of Regulatory Staff ("ORS") and addressed, if necessary, by CWS in its rebuttal testimony. Additionally, none of the subject matter of the Commission's "Request for Information" was raised by CWS's motion. Thus, administrative due process with respect to notice and an opportunity to be heard is implicated. *See* S.C. Const. art. I, § 22.

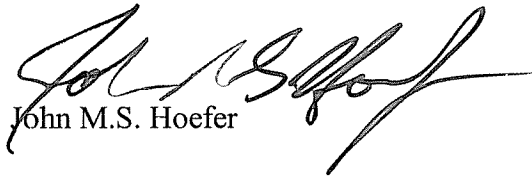
¹ Moreover, neither party of record in this case has presented, nor sought to present, evidence pertaining to the matters described in the Request for Information. Although certain customers and third parties have asserted that, prior to the rate case, they requested information from CWS through the Office of Regulatory Staff ("ORS") similar to that described in the Request for Information, neither these customers nor these third parties are parties of record in this case. As the Commission is aware, some of these customers and third parties also erroneously asserted that the information they sought was requested through the Commission and unfairly and improperly criticized and threatened the Commission in connection with that assertion. CWS submits that the Request for Information could be interpreted as a response to that unfair and improper criticism which would all the more cloud the determination in this case. *See* Rule 501, SCACR, Canon 3.B.2.

² CWS would note that a party is not required to create documentation in order to respond to discovery requests under the South Carolina Rules of Civil Procedure, which are applicable in this case. *See* 26 S.C. Code Ann. R. 103-854 (Supp. 2005).

In conclusion, CWS respectfully requests that the Commission reconsider its action taken in this docket at its June 27, 2006 meeting and limit its action to the specific relief requested in CWS's June 20, 2006 motion. If the Commission has any questions, or needs additional information to consider this request, please do not hesitate to contact me. With best regards, I am

Respectfully

WILLOUGHBY & HOEFER, P.A.


John M.S. Hoefer

JMSH/twb

cc: Shannon Bowyer Hudson, Esquire
C. Lessie Hammonds, Esquire